

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NORTH DAKOTA  
WESTERN DIVISION**

**STATE OF KANSAS, *et al.*,**

*Plaintiffs,*

**v.**

**UNITED STATES OF AMERICA, *et al.*,**

*Defendants.*

Case No. 1:24-cv-00150-DMT-CRH

**DEFENDANTS' NOTICE OF COMPLIANCE**

Defendants hereby provide notice of their good-faith efforts to comply with the Court's December 9, 2024 order granting Plaintiffs' motion for a preliminary injunction, ECF No. 117, following the Court of Appeals for the Eighth Circuit's order of December 16 granting an administrative stay of the injunction and its order of December 23 vacating the administrative stay and denying a stay of the preliminary injunction pending appeal.

1. The Court's December 9 order enjoins Defendants "from enforcing the Final Rule against the 19 Plaintiff States." ECF No. 117 at 18.

2. Implementing this injunction requires Defendants to notify DACA recipients and other impacted noncitizens (collectively, DACA recipients) in the Plaintiff-States that they are not eligible to enroll in Marketplace coverage. *See* Grant Declaration ¶ 14, ECF No. 119-1. For the 16 Plaintiff-States served by the Federally-facilitated Exchanges (FFE), Defendants must also update eligibility criteria to preclude DACA recipients from enrolling in 2025 coverage going forward and cancel 2025 coverage for any DACA recipients who have already obtained it. *See id.*

3. Following the issuance of the Court's December 9 order, the Centers for Medicare & Medicaid Services (CMS) immediately updated healthcare.gov to inform DACA recipients of the Court's decision. *See id.* ¶ 15. It also prepared to update eligibility criteria at

the first opportunity—December 22—and cancel 2025 insurance for those DACA recipients in the 16 FFE Plaintiff-States who had obtained it before the policies became effective. *See id.* ¶¶ 14, 17.

4. The Court of Appeals for the Eighth Circuit issued an administrative stay of the Court’s preliminary injunction on December 16 before CMS could have updated eligibility criteria or canceled 2025 coverage. The Court of Appeals then vacated that stay in the evening on December 23—after the December 22 update to the FFE had rolled out.

5. Since the Court of Appeals’ December 23 decision, Defendants have made their best efforts to implement the Court’s injunction while Open Enrollment continues and many employees are on leave for the end-of-year holidays. These efforts include:

- a. On December 26, CMS updated its website to inform DACA recipients that the Court’s preliminary injunction is no longer stayed. *See* Grant Supplemental Declaration ¶ 5 (attached).
- b. In the evening on December 26, CMS updated eligibility criteria for the 16 FFE Plaintiff-States, which will preclude any additional DACA recipients in those States from enrolling in 2025 coverage. *See id.* ¶ 6.
- c. On December 27, CMS intends to begin cancelling 2025 coverage for those DACA recipients in the 16 FFE Plaintiff-States who had already obtained coverage. *See id.* ¶¶ 7-8.
- d. On December 28, CMS will begin generating notices of cancellation to affected individuals. *See id.*

Dated: December 27, 2024

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

ERIC B. BECKENHAUER  
Assistant Branch Director  
Federal Programs Branch

/s/ Christopher A. Eiswerth  
Christopher A. Eiswerth (D.C. Bar No. 1029490)  
Trial Attorney  
United States Department of Justice  
Civil Division, Federal Programs Branch  
1100 L Street, NW  
Washington, DC 20005  
Tel: (202) 305-0568  
Email: christopher.a.eiswerth@usdoj.gov

*Counsel for Defendants*